

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the Revocation of the  
License of Grace Bedor

FINDINGS OF FACT,  
CONCLUSIONS,  
AND RECOMMENDATIONS

A hearing was held in this matter before Administrative Law Judge Raymond R. Krause on October 26, 2005, at approximately 9:30 a.m., at the Dakota County Judicial Center, 1560 Highway 55, Hastings, Minnesota, 55033, pursuant to a Notice of and Order for Hearing dated June 1, 2005, signed by Jerry Kerber, Director, Division of Licensing, Department of Human Services. The hearing concluded on October 26, 2005 and the record was closed.

Margaret H. Horsch, Assistant Dakota County Attorney, Dakota County Judicial Center, 1460 Highway 55, Hastings, MN, 55033, appeared on behalf of the Department of Human Services ("DHS" or "Department") and Dakota County Social Services ("County"). Grace Bedor ("Licensee"), 1701 138<sup>th</sup> St. SW, Burnsville, MN 55337, appeared on her own behalf.

**NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Goodno, Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

### **STATEMENT OF ISSUE**

The issue in this case is whether or not Grace Bedor's Family Child Care License should be revoked.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. The Licensee has been licensed to provide family child care under a Class A license since May 12, 1999.<sup>1</sup> The license was last renewed on May 21, 2004.<sup>2</sup>

2. On December 28, 2004, the Licensee's son's pediatrician reported to the County that the Licensee told the pediatrician her son had developed a rash caused by milk from Cub grocery stores and that the rash was only caused by milk from Cub stores. The Licensee also told the pediatrician that she had found white plastic things on the walls of her home and that when they turned clear they would fall off the wall.<sup>3</sup> The pediatrician told the County that that there might be some mental health concerns about the Licensee.<sup>4</sup>

3. On January 5, 2005, Selma Holm, licensing social worker with the County, and another County social worker visited the Licensee's home.<sup>5</sup> The Licensee told the social workers that there had been many strange occurrences at her home. She told them that she thought the food was tainted with rat poison. The Licensee said her son's vitamins were contaminated and that when she took the vitamins herself to check, she had a seizure and after the seizure it felt like her teeth were moving.<sup>6</sup> She said that her son got hives from milk purchased from Cub grocery stores but that no one else was affected by the milk. The Licensee told the social workers that there were camera lenses in her house and that she had been investigated by someone for a year and half. The Licensee showed the social workers two disks, neither of which looked like camera lenses. The Licensee declined to give the social workers her husband's telephone number. Ms. Holm asked the Licensee to sign a medical release form so the County could arrange for a mental health evaluation.<sup>7</sup> The Licensee

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<sup>1</sup> Testimony of Selma Holm.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Testimony of S. Holms.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

refused but said that she would talk to her own insurance company about getting an evaluation.<sup>8</sup>

4. On February 4, 2005, the Licensee apparently saw a physician at the Bloomington Lake Clinic.<sup>9</sup> The Licensee described to the doctor many of the same unusual events at her home that she had described to the social workers during the January 5, 2005 home inspection.<sup>10</sup> The physician noted that the Licensee admitted that these events might represent paranoid delusions and offered to put the Licensee on some medication for paranoid thinking. The Licensee refused the medicine. The physician recommended that the Licensee see a psychiatrist and suggested that it would be helpful to talk with her husband to confirm reports about the unusual events. The Licensee said she would consider seeing a psychiatrist or bringing in her husband.<sup>11</sup>

5. On February 6, 2005, Licensee informed Ms. Holm that her insurance company would not cover a mental health evaluation and again declined to sign a medical release form for the County.<sup>12</sup>

6. On March 9, 2005, Ms. Holm conducted an annual inspection of the Licensee's home.<sup>13</sup> Although it was quite cold outside, Ms. Holm found the entire upstairs bedroom windows wide open. The Licensee explained that she was airing the house because there had chemical smells that were making the family dog very sick. Ms. Holm did not notice any smell and observed the dog running and playing with the children in the house. The Licensee pointed to what appeared to be an electrical box outside the patio door and told Ms. Holm that the box had suddenly appeared. Ms. Holm again asked the Licensee to sign a medical release form so a mental health assessment could be arranged. The Licensee again declined but said that she had a therapy session scheduled for April 14, 2005.<sup>14</sup>

7. On March 15, 2005, the Licensee called the Burnsville Police Department and requested that the police investigate cameras she had found in her home.<sup>15</sup> Officer Megan Mikulski, a police officer with the City of Burnsville responded to the call. Officer Mikulski met with the Licensee and found that there were children receiving daycare at the house. The Licensee told Officer Mikulski that there were lenses all over her home and that she was being watched. The Licensee had removed and dismantled three smoke detectors in

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<sup>8</sup> *Id.*

<sup>9</sup> Ex. A. The Bloomington Lake Clinic records were provided the Licensee and have been annotated by the Licensee. Testimony of Grace Bedor. It is not clear if these records represent complete medical records of the Licensee from the Bloomington Lake Clinic.

<sup>10</sup> Ex. A.

<sup>11</sup> *Id.*

<sup>12</sup> Testimony of S. Holm.

<sup>13</sup> *Id.*

<sup>14</sup> Testimony of S. Holm.

<sup>15</sup> Testimony of Officer Megan Mikulski.

the house.<sup>16</sup> Officer Mikulski did not see any lens or cameras on the walls nor did she see anything in the smoke detectors that appeared to be a lens or a camera.<sup>17</sup> The Licensee also told Officer Mikulski that she believed someone was pumping gas into her home that was making the family ill.<sup>18</sup> Officer Mikulski asked if the Licensee had contacted the fire department or another agency to check for gas. The Licensee said she had not. Officer Mikulski asked to speak to the Licensee's husband. The Licensee became very agitated and would not give Officer Mikulski a telephone number to contact her husband. The Licensee showed Officer Mikulski tape on the windows. The Licensee said that she had put the tape on the windows and that someone had come into the house and put up a different kind of tape. The Licensee said that there were gouges around the faceplates of the doorknobs and that the gouges got deeper every time the family went away from the home for the weekend. Officer Mikulski did not observe any unusual scratches around the doorknobs. The Licensee gave Officer Mikulski a long list of license plate numbers from cars she had seen driving by the house. The Licensee believed these cars were involved in the surveillance of her home.<sup>19</sup> Based on her observations, Officer Mikulski thought that the Licensee was suffering from some kind of mental impairment and became concerned about the safety of the children in the Licensee's home.<sup>20</sup> These concerns were reported to Dakota County Social Services, Crisis Response Team.<sup>21</sup> Officer Mikulski stayed at the Licensee's home until staff from the Dakota County Crisis Response Team arrived.<sup>22</sup>

8. On March 15, 2005, Brian McGlinn, supervisor of the County's Crisis Response Team and Pam Korman, another team member, responded to the police officer's report.<sup>23</sup> Mr. McGlinn found that the Licensee had dismantled three smoke detectors in the belief that they contained cameras. The Licensee also told Mr. McGlinn that there was gas coming through the heating vents. Mr. McGlinn observed no basis for the Licensee's beliefs and that Licensee appeared to be suffering from paranoid delusions. He concluded that there was an ongoing long-term safety concern for the children in day care. However, since it was late in the day and it did not appear that there was any imminent danger to the children, Mr. McGlinn obtained an agreement from the Licensee that she would obtain a mental health assessment and left the home.<sup>24</sup>

9. On March 16, 2005, Selma Holm talked to a parent whose child was receiving daycare from the Licensee.<sup>25</sup> The parent said that the Licensee

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Testimony of Officer Mikulski.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Testimony of Brian McGlinn.

<sup>24</sup> *Id.*

<sup>25</sup> Testimony of S. Holm.

told her that gases were leaking into the Licensee's house and someone was trying to poison the family. The parent said she had become concerned about the Licensee.<sup>26</sup>

10. On March 16, 2005, the County recommended that DHS issue a temporary immediate suspension of the Licensee's license based on on-going concerns about the mental health of the Licensee that put the health and safety of the child care children at risk.<sup>27</sup> On the same date, DHS issued an Order of Temporary Immediate Suspension.<sup>28</sup> The Licensee was personally served with a copy of the DHS Order.<sup>29</sup>

11. On March 17, 2005, the Licensee was voluntarily hospitalized at Fairview-University Medical Center.<sup>30</sup> The Licensee was discharged from the hospital on April 4, 2005.<sup>31</sup> Dr. Boyd Hartman, the treating psychiatrist, diagnosed the Licensee with schizoaffective disorder, bipolar type.<sup>32</sup> Dr. Boyd noted that the Licensee had experienced hypomania for much of the last few years and had also had periods of depression.<sup>33</sup> He reported that a neuropsychological evaluation by Dr. Deborah Roman indicated that the Licensee displayed clear psychotic symptoms and mild thought disorder. Dr. Hartman noted that Dr. Roman reported that the Licensee's problems began twenty-five years ago and that her paranoia had been evident to her husband for five or more years.<sup>34</sup>

12. Beginning on April 6, 2005, the Licensee began seeing Dr. Sean Meade, a fifth year resident in psychiatry, on a monthly basis.<sup>35</sup> Dr. Meade concluded that the Licensee had experienced a rare reaction to the drug Zoloft which accounted for her symptoms.<sup>36</sup> Dr. Meade changed the Licensee's diagnosis from schizoaffective disorder to substance (Zoloft) induced mood and thought dysfunction.<sup>37</sup> The Licensee's medical records indicate that she began taking Zoloft on March 2, 2004.<sup>38</sup> Dr. Meade reported that replacement drugs did not appear to be impairing the Licensee's function.<sup>39</sup>

13. On April 26, 2005, the County received information that the Licensee had reported to her son's school that the Licensee's husband was

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<sup>26</sup> *Id.*

<sup>27</sup> Ex. 1.

<sup>28</sup> Ex. 2.

<sup>29</sup> Testimony of S. Holm.

<sup>30</sup> Testimony of B. McGlinn.

<sup>31</sup> Ex. B.

<sup>32</sup> Ex. 6.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Testimony of Dr. Sean Meade.

<sup>36</sup> *Id.*; Exs. 7, E and F.

<sup>37</sup> *Id.*

<sup>38</sup> Ex. A, p. 3.

<sup>39</sup> Exs. 8 and 9.

abusing the son.<sup>40</sup> The child was interviewed and maltreatment was not determined.<sup>41</sup>

14. On May 17, 2005, Ms. Holm recommended that DHS revoke the Licensee's daycare license because it appeared that the Licensee might still be having delusional episodes and because the Licensee continued to sign medical release of information forms.<sup>42</sup>

15. On May 16, 2005, DHS issued an Order Revocation.<sup>43</sup> The Order cited Minn. R. 9502.0335, which requires the Licensee to provide information regarding mental illness and Minn. Stat. §§ 245A.07 and 245A.04 governing sanctions and the application procedures.<sup>44</sup> The Order noted that the Licensee had refused to sign a release of information to allow a social worker to expedite a psychological evaluation. The Order of Revocation was also issued because of remarks the Licensee made to a child protection worker in May 2005 in which the Licensee stated that there had been instances of threats and physical violence against the Licensee by a member of the household and that children in the child care program had become sick from the water in her home.<sup>45</sup> The Order advised the Licensee of her right to appeal.

16. On May 20, 2005, the Licensee finally signed a medical release of information that permitted the County to obtain records from her hospitalization and correspond with Dr. Meade.<sup>46</sup> The Licensee did not provide a release of information for her primary care provider.<sup>47</sup>

17. On June 24, 2005, Dr. Sean Meade responded to the County's request for information regarding the Licensee's mental health, diagnosis, treatment progress, current medications, current level of competency and future level of monitoring.<sup>48</sup> Dr. Meade observed that he had not reviewed the complaints :

With regard to (the Licensee's) Competency to provide safe nurturing care to children in a home day care setting, I would suggest that her past efforts and abilities are the best reflection of her future competency. Per her description, she has managed a home day care for a number of years and that her work has been well received by the children and families that she worked with. However, I have not had the

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<sup>40</sup> Testimony of S. Holm; Ex. 3.

<sup>41</sup> Testimony of S. Holm.

<sup>42</sup> Ex. 3.

<sup>43</sup> Ex. 4.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Testimony of S. Holm.

<sup>47</sup> *Id.*

<sup>48</sup> Ex. 7.

opportunity to review her professional performance records or any complaints that may have been registered.<sup>49</sup>

Dr. Meade reported that the Licensee's primary care provider might have helpful information.<sup>50</sup>

18. The Licensee has never signed a medical release of medical information from her primary care provider despite repeated requests by the County.<sup>51</sup>

19. The Licensee appealed the Order of Revocation. The contested hearing was continued twice at the request of the Licensee.<sup>52</sup>

20. At the hearing, Dr. Meade reported that the Licensee was not experiencing any side-effects from the medication she was currently taking, that she had maintained her level of functioning. He stated that in his opinion the Licensee would be able to provide daycare to children.<sup>53</sup>

21. The Licensee provided a letter supporting the continuation of her license from parents whose children had been at her daycare.<sup>54</sup>

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Commissioner of Human Services and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. § § 14.50 and 245A.08.

2. The Department of Human Services gave proper and timely notice of the hearing in this matter.

3. The Department and Dakota County have complied with all substantive and procedural requirements of law and rule.

4. Minn. Stat. § 245A.07, subd. 3 authorizes the Commissioner of Human Services to revoke a license where a license holder fails to comply fully with applicable law or rules.

5. That under Minn. Stat. § 245A.08, subd. 3, if the Department demonstrates that reasonable cause exists to take action, the burden of proof in a hearing involving the revocation of a childcare license shifts to the license

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<sup>49</sup> Ex. 7.

<sup>50</sup> Ex. 9.

<sup>51</sup> Testimony of S. Holm.

<sup>52</sup> Testimony of G. Bedor.

<sup>53</sup> Testimony of Dr. Meade.

<sup>54</sup> Ex. G.

holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with the laws and rules allegedly violated.

6. Minn. R. 9502.0335, subps. 1 and 2 provides as follows:

License application...

Subpart 1. License application.

An application for licensure is complete when the applicant completes, signs, and submits all department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with parts 9545.0315 to 9445.0445 and Minnesota statutes.

Subpart 2. Licensing study.

D. The commissioner or agency may require, prior to licensure, or anytime during the licensed term of day care, a physical, mental illness, or chemical dependency or abuse evaluation of any caregiver or person living in the residence or present during the hours children are in care if the agency has reasonable cause to believe that any of the disqualification factors in subpart 6, item A or B, exist, or that the provider is not physically able to care for the children. These evaluations, conducted by a licensed physician, psychiatrist, psychologist, consulting psychologist, or certified chemical dependency practitioner or counselor may be used to verify physical or mental illness, chemical dependency or chemical abuse, or behavior that would reflect on the ability of the provider to give day care.

7. The Department has demonstrated reasonable cause to believe that the Licensee failed to provide a signed release of medical information for her primary care provider and that the Licensee's mental condition disqualifies her from providing care to children.

8. That the Licensee has not demonstrated that she was in full compliance with the rule.

9. A decision to revoke a license must take into account "the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program," and "the facts, conditional or circumstances concerning the program's operation, the well-being



of persons served by the program, [and] available consumer evaluations of the program ...," as required by Minn. Stat. § § 245A.04, subd. 6 and 245A.07, subd. 1.

Based upon the foregoing Conclusions, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the Commissioner of Human Services' decision to revoke Grace Bedor's family child care license be AFFIRMED.

Dated this 28th day of November, 2005

s/Raymond R. Krause

RAYMOND R. KRAUSE

Administrative Law Judge

Tape recorded (four tapes) not transcribed

### **MEMORANDUM**

In this case, the Department seeks to revoke the license of Grace Bedor on the grounds that she has failed to provide medical release of information in order to allow the County to verify her physical and mental health and her ability to provide care based on the provision of her family child care license. Ms. Bedor refused to sign any medical release for her hospitalization records until after she had been served with an Order of Revocation. Ms. Bedor has never signed a release that would allow the County to obtain medical information from her primary care provider. The Commissioner is authorized to require a release of medical information when the agency has reasonable cause to believe the provider is not physically able to care for children.<sup>55</sup> The Commissioner may revoke a license if a licensee refuses to provide information needed to evaluate the caregiver.<sup>56</sup> Ms. Bedor's continuing refusal to sign a release of medical information for her primary care physician is particularly troubling. The limited information provided by the Licensee at the hearing indicates that the primary care physician has information regarding the Licensee's mental condition. The Licensee's refusal to sign a release for her primary care provider violates her obligation to provide the Department with information regarding her medical condition.<sup>57</sup>

<sup>55</sup> Minn. R. 9502.0335. All references to Minnesota Rules are to the 2005 edition and all references to Minnesota Statutes are to the 2004 edition.

<sup>56</sup> Minn. Stat. § 245A.07.

<sup>57</sup> Minn. R. 9502.0335.

The medical records that are in evidence in this case reflect a difference of opinions among the doctors. The Licensee's primary care physician recognized that the Licensee appeared to be having paranoid delusions in February, 2005 and recommended that the Licensee obtain treatment. The Licensee refused. Six weeks later the Licensee was hospitalized. Two of the doctors that treated her during her hospitalization concluded that the Licensee had displayed psychotic experiences and been hypomanic for many years. One of the doctors diagnosed schizoaffective disorder. The other doctor concluded that the Licensee displayed clear psychotic symptoms. After the Licensee was discharged she began seeing another doctor. He concluded that the Licensee's problems were caused by a rare reaction to the drug Zoloff and that with replacement drugs the Licensee was capable of providing child care. The medical records, however, indicate that the Licensee had been experiencing problems long before she began taking Zoloff and that there was at least one incident after she stopped taking Zoloff.

Licensing and monitoring of children's daycare providers requires heightened scrutiny to protect children, who are by virtue of their age, unable to care for themselves or exercise the judgment necessary to remain safe. The licensing workers have a difficult job. They must have all the information necessary to ensure that child care providers comply with the licensing rules and provide safe supervision. The Licensee's refusal to fully cooperate in providing releases for medical information violated the rules. The Department must therefore assess the Licensee's ability to provide day care in the face of differing opinions and incomplete medical information. The statute requires the Department to place the children's safety and well-being as the paramount concern. Because of this paramount interest, it was appropriate for the Department to conclude it should revoke the Licensee's day care license.

**R.R.K.**